

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Kenneth D. Thompson,

Plaintiff,

–v–

United States Department of Education,

Defendant.

20-cv-693 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On June 5, 2020, Defendant filed a motion to dismiss. Pursuant to Rule 3.F. of this Court’s Individual Practices in Civil Cases and the parties’ briefing schedule, Dkt. No. 11, on or before June 19, 2020, Plaintiff must either file an amended pleading or notify the Court that he will rely on the pleading being attacked and respond to Defendant’s motion to dismiss. Plaintiff is on notice that declining to amend his pleadings to timely respond to a fully briefed argument in the Defendant’s June 5 motion to dismiss may well constitute a waiver of the Plaintiff’s right to use the amendment process to cure any defects that have been made apparent by the Defendant’s briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC.*, 797 F.3d 160, 190 (2d Cir. 2015) (leaving “unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility”).

If Plaintiff chooses to amend, Defendant may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that it relies on the initially-filed motion to dismiss by June 26, 2020.

SO ORDERED.

Dated: June 9, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", is positioned above a horizontal line.

ALISON J. NATHAN
United States District Judge